

IN RE: PETITIONS FOR SPECIAL HEARING \* BEFORE THE  
AND VARIANCE - SW/S Johnnycake Road  
and Oldstone Road, and N/S \* DEPUTY ZONING COMMISSIONER  
Cantwell Road (Stonegate at Patapsco,  
Sec. 1, fka Azrael Property) \* OF BALTIMORE COUNTY  
1st Election District  
1st Councilmanic District \* Case No. 96-498-SPHA  
  
JR Development Corporation \*  
Petitioner  
\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Variance for that property known as Stonegate at Patapsco, Section 1 thereof, located on the southwest side of Johnnycake Road, just west of its intersection with Fairbrook Road in Randallstown. The Petitions were filed by the owners of the property, JR Development Corporation, by and through its President, Jonathan Azrael. The Petitioners seek approval of a second amendment to the final development plan for Stonegate at Patapsco, and an amendment to the previously approved site plan in prior Case No. 95-316-A, and a variance from Section 413.1.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit four (4) freestanding single-faced signs of 36 sq.ft. each, or 144 sq.ft. total, in lieu of the one permitted sign of 15 sq.ft. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Judson H. Lipowitz, Esquire, attorney for the Petitioners, and David S. Thaler, Professional Engineer who prepared the site plan for this property. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 16.9 acres, more or less, split zoned OR-2 and D.R. 3.5 and is

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Date

By

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proposed for development with 60 condominium and 83 townhouse units. This particular parcel, known as Section 1 of Stonegate at Patapsco, was the subject of prior Case No. 95-316-A in which the Petitioners were granted variances from certain building and area setback requirements to allow for changes in the design and layout of the subject development. Testimony indicated that Stonegate at Patapsco has undergone a number of changes from its original plan which proposed a number of apartments and townhouse units. The Petitioners now come before me seeking approval of a second amendment to the development plan and site plan approved in the prior zoning case to allow for further minor modifications, specifically, to change some of the condominium units to townhouse units. Testimony indicated that, again, as in the first zoning case, the alterations proposed are minor and within the spirit and intent of the previously approved plan and that all of the relevant criteria of Section 502.1 have been met.

As to the variance relief sought, testimony indicated that the proposed identification signs are necessary to adequately identify the two separate entrances leading into this development; the main entrance at the intersection of Johnnycake Road and Oldstone Road, and a second entrance off of Oldstone Road at Cornerstone Way.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser

relaxation than that applied for would give sufficient relief; and,

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing and variance relief are not granted. It has been established that the proposed modifications to the site plan and development plan are minor in nature and meet the spirit and intent of the originally approved plan. Furthermore, the variance request will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8<sup>th</sup> day of August, 1996 that the Petition for Special Hearing seeking approval of a second amendment to the final development plan for Stonegate at Patapsco, and an amendment to the previously approved site plan in prior Case No. 95-316-A, to permit additional minor modifications, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,


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IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 413.1.E.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit four (4) freestanding single-faced signs of 36 sq.ft. each, or 144 sq.ft. total, in lieu of the one permitted sign of 15 sq.ft., in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING  
Date 8/5/16  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

August 8, 1996

Judson H. Lipowitz, Esquire  
101 E. Chesapeake Avenue, 5th Floor  
Towson, Maryland 21286

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE  
SW/S Johnnycake Road and Oldstone Road, and N/S Cantwell Road  
(Stonegate at Patapsco, Section 1, fka Azrael Property)  
1st Election District - 1st Councilmanic District  
JR Development Corporation - Petitioner  
Case No. 96-498-SPHA

Dear Mr. Lipowitz:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. Jonathan Azrael, President, JR Development Corporation  
101 E. Chesapeake Avenue, 5th Floor, Towson, Md. 21286

Messrs. David S. Thaler & Alan E. Scoll, D.S. Thaler & Associates, Inc  
7115 Ambassador Road, Baltimore, Md. 21207

People's Counsel

File

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# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

96-498-SPHA

Stonegate at Patapsco - Section 1

300' ± West of the intersection of

Johnnycake Road with Fairbrook Road

which is presently zoned

OR2 &

D.R. - 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a 2nd amendment to the final development plan, and to amend the previously approved variance plat as submitted herewith.

(Case #95-316-A)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Jonathan Azrael, Esquire

(Type or Print Name)

Signature Azrael, Gann & Franz

Fifth Floor  
101 E. Chesapeake Ave. 821-6800

Address

Phone No.

Towson,

MD

21286

City

State

Zipcode

Legal Owner(s)

JR Development Corporation

(Type or Print Name)

Signature

(Type or Print Name)

Signature

101 E. Chesapeake Ave. 410-821-6800

Address

Phone No.

5th Floor

Towson,

MD

21286

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Alan E. Scoll of

D.S. Thaler & Assoc., Inc.

Name

7115 Ambassador Rd.

944-3647

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

CAM

DATE

17 Jun 96

498



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# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

Stonegate at Patapsco - Section I  
300'± West of the Intersection of  
Johnnycake Road with Fairbrook Road

which is presently zoned

OR-2 &  
DR-3.5

96-498-SRHA

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

Section 413.1 E.1 (B.C.Z.R.)

To Allow (4) free standing single faced signs @ 36 SF± each,  
totaling 144 SF, in lieu of (1) sign at 15 SF

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Additional signage is needed in order to properly identify the several entry points into the project.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

Jonathan Azrael, Esquire

(Type or Print Name)

Signature  
Azrael, Gann & Franz

Fifth Floor,

101 E. Chesapeake Ave. 821-6800

Address Phone No.

Towson, MD 21286

City State Zipcode

Legal Owner(s):

JR Development Corporation

(Type or Print Name)

Signature

(Type or Print Name)

Signature

101 E. Chesapeake Ave. 410-821-6800

Address Phone No.

5th Floor  
Towson,

City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Alan E. Scoll of

D.S. Thaler & Assoc., Inc.

Name

7115 Ambassador Rd. 944-3647

Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

ORDER RECEIVED FOR FILING

Date

By

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Zoning Administration

Development Management

498

May 20, 1996

96-498-SPHA

**DESCRIPTIONS FOR ZONING PURPOSES ONLY**

**STONEGATE AT PATAPSCO**

**(SECTION I)**

Beginning at point approximately 300 feet west of the intersection of Johnnycake Road and Fairbook Road thence running the following courses and distances:

1. South  $29^{\circ}15'30''$  West, 979.13 feet, more or less, to a point; thence,
2. 5.12 feet, curving to the left, having a radius of 630.00 feet, more or less, to a point; thence,
3. North  $65^{\circ}37'03''$  West, 135.41 feet, more or less, to a point; thence,
4. 236.33 feet curving to the left, having a radius of 630.00 feet, more or less, to a point; thence,
5. North  $87^{\circ}06'39''$  West, 374.46 feet, more or less, to a point; thence,
6. North  $17^{\circ}51'22''$  East, 923.48 feet, more or less, to a point; thence,
7. South  $76^{\circ}47'16''$  East, 469.50 feet, more or less, to a point thence,
8. South  $83^{\circ}56'17''$  East, 471.24 feet, more or less, to the point of beginning.

Containing approximately 16.9 acres or land, more or less.

APPROVED

498



Page 2

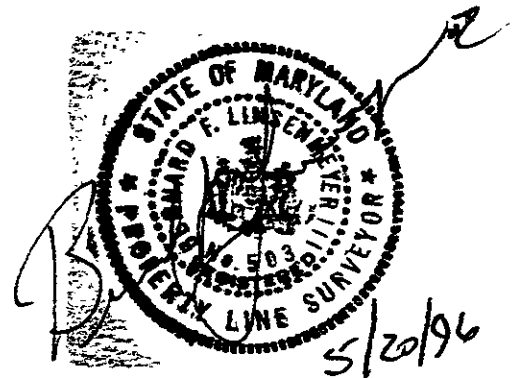
May 20, 1996

DESCRIPTIONS FOR ZONING PURPOSES ONLY  
STONEGATE AT PATAPSCO  
(SECTION I)

96-498-SPHA

Located in the First Election District of Baltimore County,  
Maryland. Being part of that land recorded among the Land Records  
of Baltimore County in Plat Book 64/148 and Deed References  
7797/838, 7849/613, 7849/616 and 8203/221.

DESCD#5/stonegt/ret/5.9



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498

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY** 96-4198-18PHH  
Towson, Maryland

District: 1st Date of Posting: 6/28/96

Posted for: Special Hearing of Variance

Petitioner: TR Development Corp

Location of property: Stonington at Potomac

Location of Sign: Facing the way on property being zoned

Remarks: \_\_\_\_\_

Posted by: W. H. H. H. Date of return: 7/5/96  
Signature

Number of Signs: 1

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**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: 88-498-SHA

(Item 188)

Storage at Paddock, HA  
Aerial Property  
300 W. of Johnny Cline and  
Fairbanks Roads  
1st Election District  
1st Councilmanic  
Legal Owner(s):  
JR Development Corporation

Special Hearing to approve a 2nd amendment to the final development plan and to amend the previously approved variance; plot as submitted. Variance: to allow (4) free-standing single faced signs at 36'-4" square feet each totaling 144 square feet in lieu of the (1) sign at 16 square feet.

Hearing: Monday, July 15, 1986 at 11:00 a.m. in Rm. 118, Old Courthouse.

LAWRENCE E. SCHMIDT,  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 867-3353.  
(2) For information concerning the file and/or Hearing, Please Call 867-3391.

6/288 June 27 C62920

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., 6/27, 1996

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/27, 1996.

THE JEFFERSONIAN,  
*A. H. Emerson*  
LEGAL AD.-TOWSON

*W. J. W. W. W.*

BALTIMORE COUNTY, MARYLAND  
OFFICE OF BUDGET & FINANCE  
MISCELLANEOUS RECEIPT

No. 074389

DATE 12/14/99 ACCOUNT 001-6150  
AMOUNT \$ 40.00 (MJK)

RECEIVED FROM: Kyland Homes  
FOR: 44-2992

Stonegate at Pt - Sec I

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

PAYMENT ACTUAL TIME  
12/15/99 12/14/99 11:02:35  
REG 0004 CASHIER NAME JLN WAMET  
Dept 5 520 ZIVINE DEPIFICATION  
Receipt # 100002  
CR NO. 074389  
Receipt Tot 40.00  
40.00 OK  
Baltimore County, Maryland

Act and Regulations of Baltimore  
entified herein in  
towsen, Maryland 21204

ryland 21204 as follows:

CASHIER'S VALIDATION

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 722009

DATE 17 Jun 96 ACCOUNT 96-418-SPHA  
R-001-6150

AMOUNT \$ 570.00  
RECEIVED FROM: JR Development Corporation

FOR: SPHA Stonegate @ Patuxent

MICROFILMED

11/20/99 JLN WAMET \$570.00  
RE 000015 (000015-17-94)

DISTRIBUTION  
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

VALIDATION OR SIGNATURE OF CASHIER

in and to amend the previously  
feet each totaling 144 square feet

NS PLEASE CALL 887-3353.  
LL 887-3391.



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

June 20, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-498-SPHA (Item 498)  
Stonegate at Patapsco, FKA Azrael Property  
300' W of Johnny Cake and Fairbanks Roads  
1st Election District - 1st Councilmanic  
Legal Owner(s): JR Development Corporation

Special Hearing to approve a 2nd amendment to the final development plan and to amend the previously approved variance plat as submitted.  
Variance to allow (4) free-standing single faced signs at 36+/- square feet each totaling 144 square feet in lieu of the (1) sign at 15 square feet.

HEARING: MONDAY, JULY 15, 1996 at 11:00 a.m. in Room 118, Old Courthouse.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: JR Development Corporation  
Alan E. Scoll/D.S.Thaler & Associates, Inc.  
Jonathan Azrael, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

July 10, 1996

Jonathan Azrael, Esquire  
Azrael, Gann & Franz  
Fifth Floor  
101 E. Chesapeake Avenue  
Towson, MD 21286

RE: Item No.: 498  
Case No.: 96-498-SPHA  
Petitioner: JR Development Corp.

Dear Mr. Azrael:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 17, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

  
W. Carl Richards, Jr.  
Zoning Supervisor

WCR/re  
Attachment(s)

**MICROFILMED**



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Department of Permits & Development  
Management

Date: June 28, 1996

FROM: *RWB* Robert W. Bowling, Chief  
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting  
For July 1, 1996  
Item Nos. 491, 493, 494, 495, 496,  
498, and 499

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE15

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Baltimore County Government  
Fire Department



700 East Joppa Road  
Towson, MD 21286-5500

Office of the Fire Marshal  
(410) 887-4880

DATE: 06/26/96

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JUNE 24, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 490, 491, 493, 494, 495, 496,  
497, 498 and 499.

2 1996

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REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 6/27/96

FROM: R. Bruce Seeley  
Permits and Development Review  
DEPRM

SUBJECT: Zoning Advisory Committee  
Meeting Date: For July 1, 1996

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 490  
492  
493  
494  
495  
496  
498  
499

RBS:sp

BRUCE2/DEPRM/TXTSBP

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**Maryland Department of Transportation**  
**State Highway Administration**

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

6-21-96

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 498 (CAM)

Dear Ms. Watson:

This office has reviewed the referenced plan and we have no objection to approval as the development does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-545-5581 if you have any questions. Thank you for the opportunity to review this plan.

Very truly yours,

*for* *Bob Small*  
Ronald Burns, Chief  
Engineering Access Permits  
Division

BS

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

B A L T I M O R E   C O U N T Y ,   M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO:      Arnold Jablon, Director  
         Permits and Development  
         Management

DATE:   June 19, 1996

FROM:   Pat Keller, Director  
         Office of Planning

SUBJECT:   Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

*476, 9W2.*

Item No. Nos. 490, 492, 493, 494, 495, 496, 498, and 499

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by:

*Jeffrey Long*

Division Chief:

*Carol L. Kerns*

PK/JL

# PETITION PROBLEMS

## **#490 --- RT**

1. Petition does not say what is being requested.
2. No printed name or title for person signing for contract purchaser.

## **#492 --- MJK**

1. No telephone number for legal owner.
2. No printed name or title for person signing for lessee.

## **#495 --- JLL**

1. No review information on bottom of petition form.

## **#498 --- CAM**

1. Only one folder with petition – "box" is not acceptable.

6/18/96

MICROFILM

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
PETITION FOR VARIANCE		
300' W of Johnnycake and Fairbanks Rds	*	ZONING COMMISSIONER
(Stonegate at Patapsco, FKA Azrael Property)		
1st Election District, 1st Councilmanic	*	OF BALTIMORE COUNTY
JR Development Corporation	*	CASE NO. 96-498-SPHA
Petitioner		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

Carole S. Demilio  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19<sup>th</sup> day of July, 1996, a copy of the foregoing Entry of Appearance was mailed to Jonathan Azrael, Esquire, Azrael, Gann & Franz, 101 E. Chesapeake Avenue, 5th Floor, Towson, MD 21286, attorney for Petitioner.

Peter Max Zimmerman  
PETER MAX ZIMMERMAN

MICROFILMED



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
pdmlandacq@co.ba.md.us

December 9, 1999

Ms. Stacey A. McArthur, R.L.A.  
D.S. Thaler and Associates, Inc.  
7115 Ambassador Road  
P.O. Box 47428  
Baltimore, Maryland 21244-7428

Dear Ms. McArthur:

RE: Zoning Verification, Spirit and Intent, Stonegate at Patapsco, Case 96-498-SPHA,  
1<sup>st</sup> Election District

Thank you for your letter of November 22, 1999 to Arnold Jablon, Director of Permits and Development Management. This correspondence has been referred to me for reply.

Please be advised the Zoning Office will consider the red-lined plan as within the spirit and intent of the variances granted within Zoning Case 95-316A and 96-498-SPHA; however, the final development plan (FDP) must still be amended pursuant to Section 1B01.3A.7 of the Baltimore County Zoning Regulations. This may be accomplished by obtaining signatures of lot owners within 300 feet of the changes or approval of a special hearing before the Zoning Commissioner.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Kellman".

Mitchell J. Kellman  
Planner II  
Zoning Review

MJK:kew



Census 2000



For You, For Baltimore County



Census 2000



Printed with Soybean Ink  
on Recycled Paper

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)

# D.S. THALER & ASSOCIATES, INC.

7115 AMBASSADOR ROAD • P.O. BOX 47428 • BALTIMORE, MARYLAND 21244-7428  
(410) 944-ENGR • (410) 944-3647 • FAX (410) 944-3684

November 22, 1999

Mr. Arnold E. Jablon, Director  
Baltimore County Maryland  
Office of Permits and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

RE: Stonegate at Patapsco- Section I  
"Spirit and Intent" Request  
Zoning Case 96-498-SPHA

Dear Mr. Jablon,

This letter is a request for your concurrence that the enclosed "red-lined" plan meets the "Spirit and Intent" of the approval of the 2<sup>nd</sup> Amended Partial Development Plan presented in Zoning Case 96-498-SPHA.

On the enclosed red-lined plans, 18' wide interior townhouse units have been replaced with 20' wide townhouse units, and also a group of garage townhouse units have been changed to non-garage units, resulting in a net loss of 2 units. The previously granted variances (case # 95-316A) will be utilized. No new variances will be requested or required.

Since the mid-1990s the zoning history of Section I is as follows:

## Case #95-316A (April 25, 1995)

- \* various set-back variances
- \* variance for the number of units allowed in a row
- \* variance for the reduction of private yard space

## Spirit and Intent (case #95-316A) July 1995

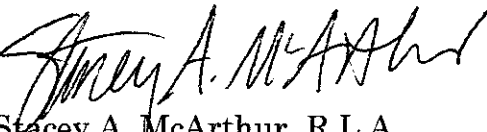
- \* replace 16' townhouses with a combination of 18' and 20' wide townhouse units.

The Development Review Committee (DRC) will be concurrently reviewing the revisions as a refinement to the CRG.

Thank you for your consideration in this matter. Should you have nay questions, please do not hesitate to contact out office.

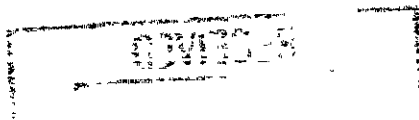
Very truly yours,

D.S. Thaler & Associates, Inc.



Stacey A. McArthur, R.L.A.

Copy: Doug Eshelman  
Alan E. Scoll, R.L.A.  
Mark S. Vaszil  
David S. Thaler, P.E., L.S.





**D.S. THALER & ASSOCIATES, INC.**

7115 AMBASSADOR ROAD, P.O. BOX 47428, BALTIMORE, MARYLAND 21244-7428  
(410) 944-ENGR (410) 944-3647 FAX (410) 944-3684 EMAIL [dsta@erols.com](mailto:dsta@erols.com)

TO: PDM  
BALTIMORE COUTY MARYLAND  
111 W. CHESAPEAKE AVE.  
TOWSON, MARYLAND 21204

ATTN: MR. ARNOLD E. JABLON, DIRECTOR

DATE: November 22, 1999  
RE: **STONEGATE AT PATAPSCO**  
**SECTION I**  
DST&A PN: 2286A  
PDM # :

- ☒ We are submitting  
☐ We are forwarding  
☐ We are returning  
☐ We request

- ☒ Herewith  
☐ Regular U.S. Mail  
☒ Hand Delivered  
☐ Federal Express/Courier Service

11/24/99  
8  
service WCR  
To: Minors  
Answer FDO?  
11/29/99  
See me

[illegible]

Remarks:

- ☐ In accordance with your request
- ☒ For your review
- ☐ For processing
- ☐ Plans reviewed and accepted
- ☐ Plans reviewed and accepted as noted
- ☐ For revision by you

- ☐ For your use  
☐ Please call when ready  
☐ Please return to this office  
☒ Approval requested  
☐ Conference requested at your convenience  
☐

For further information, please contact the writer at this office

Enclosure ☒ DOUG ESHELMAN  
cc: file ☒  
cc: Client ☒

Sincerely yours,

STACEY A. MCARTHUR

PETITIONER'S

IN RE: PETITION FOR VARIANCE <sup>2</sup> BEFORE THE  
S/S Johnnycake Road, W of  
Fairbrook Road \* DEPUTY ZONING COMMISSIONER  
(Stonegate at Patapsco) \* OF BALTIMORE COUNTY  
1st Election District  
1st Councilmanic District \* Case No. 95-316-A  
J.R. Development Corp. - Petitioners  
\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance for that property located within the development of Stonegate at Patapsco, formerly known as the Azrael Property, located on the south side of Johnnycake Road, West of Fairbrook Road in the vicinity of Randallstown. The Petition was filed by the owners of the property, J. R. Development Corporation, by Jonathan A. Azrael, Esquire, President and attorney for the Petitioners. The Petitioners seek relief from the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policies (C.M.D.P.) as follows: From Section 101 of the B.C.Z.R. to permit up to eight (8) townhouses in an attached group in lieu of the permitted six (6); from Section 1B01.2.C.1 of the B.C.Z.R. and Section V.B.3 of the C.M.D.P. to permit a minimum separation between townhouse groups of 20 feet in lieu of the required minimum of up to 40 feet; from Section 1B01.2.C.2.b and V.B.6.c of the C.M.D.P. to permit a window to window separation between townhouse groups of 20 feet in lieu of the required 40 feet; from Section 1B01.2.C.1 of the B.C.Z.R. and Section V.B.3 of the C.M.D.P. to permit a minimum distance between proposed townhouse groups and existing condominium buildings of 30 feet in lieu of the required 40 feet; from Section 1B01.2.C.2.b of the B.C.Z.R. and V.B.6.c of the C.M.D.P. to permit a window to window separation between townhouse groups and existing condominiums of 30 feet in lieu of the required 40

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feet; from Section V.B.6.a of the C.M.D.P. to allow a window to side street right-of-way setback of 15 feet in lieu of the required 25 feet; from Section 1B01.2.C.6 of the B.C.Z.R. and Section V.B.6.b of the C.M.D.P. to permit a window to side property line setback of 10 feet in lieu of the required 15 feet; from Sections 301.1 and 1B01.2.C.2.a of the B.C.Z.R. and Section V.B.5.a of the C.M.D.P. to permit an open projection (deck) setback of 23 feet in lieu of the required 26.25 feet required where a window to tract boundary setback is applicable; from Section 301.1 of the B.C.Z.R. and Section V.B.6.b of the C.M.D.P. to permit an open projection (deck) setback of 3 feet in lieu of the required 11.25 feet required where a window to property line setback is applicable; from Section V.B.7 of the C.M.D.P. to permit private yard space of 400 sq.ft. in lieu of the required 500 sq.ft.; and from Section V.B.6.d of the C.M.D.P. to permit a front window to travel way centerline setback of 50 feet in lieu of the required 53 feet where perpendicular parking is provided, and 40 feet in lieu of the required 50 feet where perpendicular parking is not provided. The subject property and relief sought are more particularly described within the Petition for Variance filed and the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Jonathan Azrael, Esquire, President and attorney for J. R. Development Corporation, Richard Azrael, a Partner, and David S. Thaler and Alan Scoll, Registered Professional Engineers with D. S. Thaler and Associates, Inc., who prepared the site plan for this development. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 60.453 acres, more or less, split zoned D.R. 10.5 (0-2), D.R. 5.5 and R.C.3. The property is an irregularly shaped

parcel of land located between Johnnycake Road and Interstate 70. The proffered testimony presented by Mr. Thaler revealed that this property was previously approved through the C.R.G. process for 494 apartments and 26 townhouse units. Some of the apartment buildings have already been constructed. The property owner now proposes to alter the originally approved plan to reduce the number of apartments to 218 units and increase the number of townhouse units from 26 to 232. The proposed development will also contain 5 single family detached houses. In essence, the Petitioner proposes to reduce the number of apartments by 276 while raising the number of townhouse units by 206 units, resulting in a net loss of 70 density units. The total number of units proposed is far below the 567 density units that are allowable for this entire project.

Further testimony offered by Mr. Thaler indicated that the proposed changes will maintain similar development patterns as were previously approved at the C.R.G. level. He further testified that there are similar projects in existence on both sides of the proposed development and that this project is in keeping with the character of the surrounding locale.

Mr. Thaler also testified that the Developer may elect to make minor alterations to the design and layout of the proposed buildings. As long as those minor alterations are within the spirit and intent of the plan submitted at the hearing and marked into evidence as Petitioner's Exhibit 1, then the necessity for a further hearing on those minor alterations would not be necessary. In order to make the proposed modifications to the plan as set forth herein, the requested variances are necessary.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed

and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307

offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

- 2) whether a grant of the variance applied for would do substantial injustice to applicant as well as to other property owners in the district or whether a

lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 25<sup>th</sup> day of April, 1995 that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) and the Comprehensive Manual of Development Policies (C.M.D.P.) as follows: From Section 101 of the B.C.Z.R. to permit up to eight (8) townhouses in an attached group in lieu of the permitted six (6); from Section 1B01.2.C.1 of the B.C.Z.R. and Section V.B.3 of the C.M.D.P. to permit a minimum separation between townhouse groups of 20 feet in lieu of the required minimum of up to 40 feet; from Section 1B01.2.C.2.b and V.B.6.c of the C.M.D.P. to permit a window to window separation between townhouse groups of 20 feet in lieu of the required 40 feet; from Section

1B01.2.C.1 of the B.C.Z.R. and Section V.B.3 of the C.M.D.P. to permit a minimum distance between proposed townhouse groups and existing condominium buildings of 30 feet in lieu of the required 40 feet; from Section 1B01.2.C.2.b of the B.C.Z.R. and V.B.6.c of the C.M.D.P. to permit a window to window separation between townhouse groups and existing condominiums of 30 feet in lieu of the required 40 feet; from Section V.B.6.a of the C.M.D.P. to allow a window to side street right-of-way setback of 15 feet in lieu of the required 25 feet; from Section 1B01.2.C.6 of the B.C.Z.R. and Section V.B.6.b of the C.M.D.P. to permit a window to side property line setback of 10 feet in lieu of the required 15 feet; from Sections 301.1 and 1B01.2.C.2.a of the B.C.Z.R. and Section V.B.5.a of the C.M.D.P. to permit an open projection (deck) setback of 23 feet in lieu of the required 26.25 feet required where a window to tract boundary setback is applicable; from Section 301.1 of the B.C.Z.R. and Section V.B.6.b of the C.M.D.P. to permit an open projection (deck) setback of 3 feet in lieu of the required 11.25 feet required where a window to property line setback is applicable; from Section V.B.7 of the C.M.D.P. to permit private yard space of 400 sq.ft. in lieu of the required 500 sq.ft.; and from Section V.B.6.d of the C.M.D.P. to permit a front window to travel way centerline setback of 50 feet in lieu of the required 53 feet where perpendicular parking is provided, and 40 feet in lieu of the required 50 feet where perpendicular parking is not provided, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order



has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

2) Compliance with the Zoning Plans Advisory Committee comments submitted by the various Baltimore County reviewing agencies and made a part of the case file.

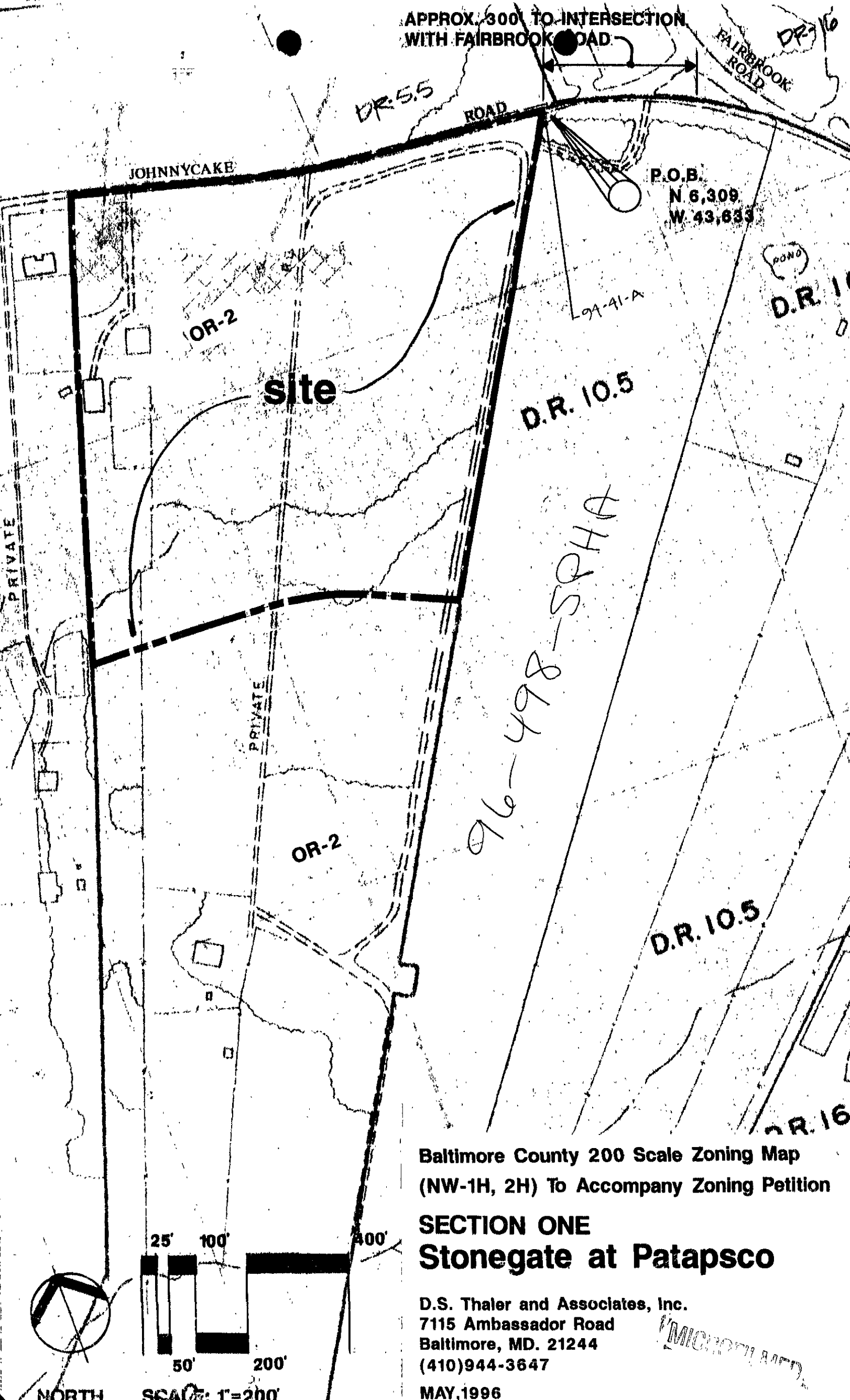
3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.



TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

APPROX. 300' TO INTERSECTION  
WITH FAIRBROOK ROAD



JOHNNYCAKE

DR-5.5

ROAD

FAIRBROOK ROAD

P.O.B.

N 6,309

W 43,633

OR-2

site

D.R. 10.5

POND

D.R. 16

PRIVATE

PRIVATE

OR-2

96-498-SPHA

D.R. 10.5

D.R. 16

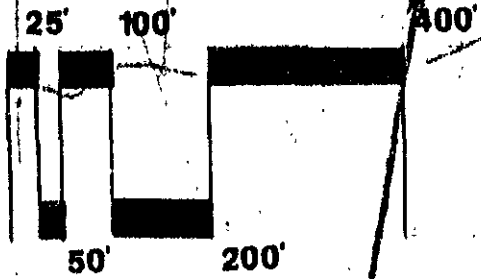
Baltimore County 200 Scale Zoning Map  
(NW-1H, 2H) To Accompany Zoning Petition

## SECTION ONE Stonegate at Patapsco

D.S. Thaler and Associates, Inc.  
7115 Ambassador Road  
Baltimore, MD. 21244  
(410)944-3647

MAY, 1996

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NORTH

SCALE: 1"=200'

TO: PUTUXENT PUBLISHING COMPANY  
June 27, 1996 Issue - Jeffersonian

Please forward billing to:

Jonathan Azrael, Esq.  
101 E. Chesapeake Avenue, 5th Floor  
Towson, MD 21286  
821-6800

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### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-498-SPHA (Item 498)  
Stonegate at Patapsco, FKA Azrael Property  
300' W of Johnny Cake and Fairbanks Roads  
1st Election District - 1st Councilmanic  
Legal Owner(s): JR Development Corporation

Special Hearing to approve a 2nd amendment to the final development plan and to amend the previously approved variance plat as submitted.  
Variance to allow (4) free-standing single faced signs at 36+/- square feet each totaling 144 square feet in lieu of the (1) sign at 15 square feet.

HEARING: MONDAY, JULY 15, 1996 at 11:00 a.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

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